



Reprinted
February 5, 2004

HOUSE BILL No. 1194

DIGEST OF HB 1194 (Updated February 4, 2004 9:28 pm - DI 92)

Citations Affected: IC 10-13; IC 12-14; IC 31-9; IC 31-33; IC 31-34; IC 31-37; IC 31-39.

Synopsis: Child abuse reporting. Provides that a CPS child abuse or neglect report may conclude that abuse or neglect is indicated. (Current law allows only substantiated and unsubstantiated findings.) Provides that criminal history checks are required of certain individuals. Requires the local child protection service to provide training to caseworker's concerning the statutory and constitutional rights of persons subject to investigation. Provides that a person who is the subject of a child abuse or neglect investigation must be advised of the nature of the complaint upon the initiation of the investigation.

Effective: July 1, 2004.

**Avery, Summers, Budak,
Orentlicher**

January 13, 2004, read first time and referred to Committee on Human Affairs.
January 29, 2004, amended, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.

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HB 1194—LS 7344/DI 105+



Reprinted
February 5, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1194

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION
2 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency"
4 means any agency or department of any level of government whose
5 principal function is:
6 (1) the apprehension, prosecution, adjudication, incarceration,
7 probation, rehabilitation, or representation of criminal offenders;
8 (2) the location of parents with child support obligations under 42
9 U.S.C. 653;
10 (3) the licensing and regulating of riverboat gambling operations;
11 or
12 (4) the licensing and regulating of pari-mutuel horse racing
13 operations.
14 (b) The term includes the following:
15 (1) The office of the attorney general.
16 (2) The Medicaid fraud control unit, for the purpose of
17 investigating offenses involving Medicaid.

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(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(4) An employee of the division of family and children, a caseworker (as defined in IC 31-9-2-11), or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

SECTION 2. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

(2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;

(3) services to families who have members placed in care settings outside the nuclear family; **and**

(4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Family preservation services may not include a temporary out-of-home placement if a person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a

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temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 3. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:

- (1) criminal history data (as defined in IC 10-13-3-5);
- (2) each substantiated report of child abuse or neglect; and
- (3) each adjudication for a delinquent act described in IC 31-37-1-2.

SECTION 4. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation of suspected child abuse or neglect that:

- (1) provide:
 - (A) significant indications that a child may be at risk for abuse or neglect; or
 - (B) evidence that abuse or neglect previously occurred; and
- (2) cannot be classified as substantiated or unsubstantiated.

SECTION 5. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child protection service:

- (1) must have sufficient qualified and trained staff to fulfill the purpose of this article; ~~and~~
- (2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families; ~~and~~
- (3) must provide training, for each staff person who is involved in the investigation of child abuse or neglect or who is involved in the provision of treatment services under IC 31-33-12 or IC 31-33-13 in the duty of the staff person, to recognize and attempt to uphold the:
 - (A) statutory rights of a child and any member of a child's family, including a child's guardian or custodian, who is

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the subject of an investigation of child abuse or neglect;
and

(B) right of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect to be protected against unreasonable search and seizure under:

(i) the Fourth Amendment to the Constitution of the United States; and

(ii) Article 1, Section 11 of the Constitution of the State of Indiana.

SECTION 6. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the local child protection service, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the local child protection service whenever the law enforcement agency has reason to believe that an offense has been committed.

(b) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2.

(c) In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

(1) the local child protection agency; and

(2) the juvenile court under IC 31-34-7.

SECTION 7. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The local child protection service shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the local child protection service

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receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the child protection service has reason to believe that the child is in imminent danger of serious bodily harm, the child protection service shall initiate within one (1) hour an immediate, onsite investigation.

(f) A member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2.

SECTION 8. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the local child protection service shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the local child protection service, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

(c) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive

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1 **under IC 31-33-18-2.**

2 SECTION 9. IC 31-33-8-12 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) Upon
4 completion of an investigation, the local child protection service shall
5 classify reports as substantiated, **indicated**, or unsubstantiated.

6 **(b) Except as provided in subsection (c), a local child protection**
7 **service shall expunge investigation records one (1) year after a**
8 **report has been classified as indicated under subsection (a).**

9 **(c) If a local child protection service has:**

10 **(1) classified a report under subsection (a) as indicated; and**
11 **(2) not expunged the report under subsection (b);**
12 **and the subject of the report is the subject of a subsequent report,**
13 **the one (1) year period in subsection (b) is tolled for one (1) year**
14 **after the date of the subsequent report.**

15 SECTION 10. IC 31-33-18-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other
17 material described in section 1 of this chapter shall be made available
18 only to the following:

19 (1) Persons authorized by this article.

20 (2) A legally mandated public or private child protective agency
21 investigating a report of child abuse or neglect or treating a child
22 or family that is the subject of a report or record.

23 (3) A police or other law enforcement agency, prosecuting
24 attorney, or coroner in the case of the death of a child who is
25 investigating a report of a child who may be a victim of child
26 abuse or neglect.

27 (4) A physician who has before the physician a child whom the
28 physician reasonably suspects may be a victim of child abuse or
29 neglect.

30 (5) An individual legally authorized to place a child in protective
31 custody if:

32 (A) the individual has before the individual a child whom the
33 individual reasonably suspects may be a victim of abuse or
34 neglect; and

35 (B) the individual requires the information in the report or
36 record to determine whether to place the child in protective
37 custody;

38 (6) An agency having the legal responsibility or authorization to
39 care for, treat, or supervise a child who is the subject of a report
40 or record or a parent, guardian, custodian, or other person who is
41 responsible for the child's welfare.

42 (7) An individual named in the report or record who is alleged to

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1 be abused or neglected or, if the individual named in the report is
 2 a child or is otherwise incompetent, the individual's guardian ad
 3 litem or the individual's court appointed special advocate, or both.

4 (8) Each parent, guardian, custodian, or other person responsible
 5 for the welfare of a child named in a report or record and an
 6 attorney of the person described under this subdivision, with
 7 protection for the identity of reporters and other appropriate
 8 individuals.

9 (9) A court, upon the court's finding that access to the records
 10 may be necessary for determination of an issue before the court.
 11 However, access is limited to in camera inspection unless the
 12 court determines that public disclosure of the information
 13 contained in the records is necessary for the resolution of an issue
 14 then pending before the court.

15 (10) A grand jury upon the grand jury's determination that access
 16 to the records is necessary in the conduct of the grand jury's
 17 official business.

18 (11) An appropriate state or local official responsible for the child
 19 protective service or legislation carrying out the official's official
 20 functions.

21 (12) A foster care review board established by a juvenile court
 22 under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the
 23 court's determination that access to the records is necessary to
 24 enable the foster care review board to carry out the board's
 25 purpose under IC 31-34-21.

26 (13) The community child protection team appointed under
 27 IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to
 28 enable the team to carry out the team's purpose under IC 31-33-3.

29 (14) A person about whom a report has been made, with
 30 protection for the identity of:

31 (A) any person reporting known or suspected child abuse or
 32 neglect; and

33 (B) any other person if the person or agency making the
 34 information available finds that disclosure of the information
 35 would be likely to endanger the life or safety of the person.

36 **(15) An employee of the division of family and children, a**
 37 **caseworker, or a juvenile probation officer conducting a**
 38 **criminal history check under IC 12-14-25.5-3, IC 31-34, or**
 39 **IC 31-37 to determine the appropriateness of an out-of-home**
 40 **placement for a:**

41 **(A) child at imminent risk of placement;**

42 **(B) child in need of services; or**

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(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

SECTION 11. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

- (1) complete a home study of the relative's home; and
- (2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

(d) A court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or**
- (2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.**

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 12. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

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(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 13. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) A court may not enter a dispositional decree under subsection (b) if a person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation

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1 **officer or caseworker who prepared the predispositional report to**
 2 **conduct a criminal history check in the manner set forth in**
 3 **IC 31-34-18-6.1.**

4 **(b)** In addition to the factors under section 6 of this chapter, if the
 5 court enters a dispositional decree regarding a child in need of services
 6 that includes an out-of-home placement, the court shall consider
 7 whether the child should be placed with the child's suitable and willing
 8 blood or adoptive relative caretaker, including a grandparent, an aunt,
 9 an uncle, or an adult sibling, before considering other out-of-home
 10 placements for the child.

11 **(c) The court is not required to order a probation officer or**
 12 **caseworker to conduct a criminal history check under subsection**
 13 **(a) if the court orders an out-of-home placement to an entity or a**
 14 **facility that is not a residence (as defined in IC 3-5-2-42.5) or that**
 15 **is licensed by the state.**

16 SECTION 14. IC 31-34-20-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section**
 18 **1.5 of this chapter**, if a child is a child in need of services, the juvenile
 19 court may enter one (1) or more of the following dispositional decrees:

20 (1) Order supervision of the child by the probation department or
 21 the county office of family and children.

22 (2) Order the child to receive outpatient treatment:

23 (A) at a social service agency or a psychological, a psychiatric,
 24 a medical, or an educational facility; or

25 (B) from an individual practitioner.

26 (3) Remove the child from the child's home and place the child in
 27 another home or shelter care facility. Placement under this
 28 subdivision includes authorization to control and discipline the
 29 child.

30 (4) Award wardship to a person or shelter care facility. Wardship
 31 under this subdivision does not include the right to consent to the
 32 child's adoption.

33 (5) Partially or completely emancipate the child under section 6
 34 of this chapter.

35 (6) Order:

36 (A) the child; or

37 (B) the child's parent, guardian, or custodian;
 38 to receive family services.

39 (7) Order a person who is a party to refrain from direct or indirect
 40 contact with the child.

41 SECTION 15. IC 31-34-20-1.5 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2004]: Sec. 1.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a person under section 1(4) of this chapter if a person who is:

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 16. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) The juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

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(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) ~~other~~ another relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by

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the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 17. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

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(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 18. IC 31-37-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office of family and children.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian; to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 19. IC 31-37-19-6, AS AMENDED BY P.L.1-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter **and subject to section 6.5 of this chapter**, the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

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(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 20. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(D) of this chapter or awarding wardship to a person under section 1(4) or 6(b)(E) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section under section 1(3), 1(4), 6(b)(D), or

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1 6(b)(E) of this chapter; or

2 (2) expected to be residing in the home in which the child
3 would be placed under section 1(3), 1(4), 6(b)(D), or 6(b)(E) of
4 this chapter during the time the child would be placed in the
5 home;

6 has committed an act resulting in a substantiated report of child
7 abuse or neglect, has a juvenile adjudication for an act that would
8 be a felony listed in IC 12-17.4-4-11 if committed by an adult, or
9 has a conviction for a felony listed in IC 12-17.4-4-11.

10 (b) The juvenile court shall order the probation officer or
11 caseworker who prepared the predispositional report to conduct
12 a criminal history check to determine if a person described in
13 subsection (a)(1) or (a)(2) has committed an act resulting in a
14 substantiated report of child abuse or neglect, has a juvenile
15 adjudication for an act that would be a felony listed in
16 IC 12-17.4-4-11 if committed by an adult, or has a conviction for a
17 felony listed in IC 12-17.4-4-11. However, the juvenile court is not
18 required to order a criminal history check under this section if
19 criminal history information under IC 31-37-17-6.1 establishes
20 whether a person described in subsection (a)(1) or (a)(2) has
21 committed an act resulting in a substantiated report of child abuse
22 or neglect, has a juvenile adjudication for an act that would be a
23 felony listed in IC 12-17.4-4-11 if committed by an adult, or has a
24 conviction for a felony listed in IC 12-17.4-4-11.

25 SECTION 21. IC 31-39-2-13.5 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2004]: Sec. 13.5. The records of the juvenile
28 court are available without a court order to an employee of the
29 division of family and children, a caseworker, or a juvenile
30 probation officer conducting a criminal history check under
31 IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the
32 appropriateness of an out-of-home placement for a:

- 33 (1) child at imminent risk of placement;
34 (2) child in need of services; or
35 (3) delinquent child.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1194, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

- (1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2) the location of parents with child support obligations under 42 U.S.C. 653;
- (3) the licensing and regulating of riverboat gambling operations;
- or
- (4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

- (1) The office of the attorney general.
- (2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.
- (3) A nongovernmental entity that performs as its principal function the:
 - (A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;
 - (B) location of parents with child support obligations under 42 U.S.C. 653;
 - (C) licensing and regulating of riverboat gambling operations;
 - or
 - (D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(4) An employee of the division of family of children, a caseworker (as defined in IC 31-9-2-11), or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

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- (A) child at imminent risk of placement;**
- (B) child in need of services; or**
- (C) delinquent child.**

SECTION 2. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Family preservation services may provide:

- (1) comprehensive, coordinated, flexible, and accessible services;
- (2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;
- (3) services to families who have members placed in care settings outside the nuclear family; **and**
- (4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Family preservation services may not include a temporary out-of-home placement if a person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;**

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 3. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:

- (1) criminal history data (as defined in IC 10-13-3-5);**
- (2) each substantiated report of child abuse or neglect; and**
- (3) each adjudication for a delinquent act described in IC 31-37-1-2."**

Page 1, line 13, after "12." insert "(a)".

Page 1, delete lines 16 through 17.

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Delete pages 2 through 4, begin a new paragraph and insert:

"(b) Except as provided in subsection (c), a local child protection service shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If a local child protection service has:

- (1) classified a report under subsection (a) as indicated; and**
- (2) not expunged the report under subsection (b);**

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 6. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in section 1 of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
 - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
 - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody;
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible

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for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

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SECTION 7. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

- (1) complete a home study of the relative's home; and
- (2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

(d) A court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

- (1) committed an act resulting in a substantiated report of child abuse or neglect; or**
- (2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.**

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 8. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

- (1) A description of all dispositional options considered in preparing the report.
- (2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement

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recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.**

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

- (1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:**
 - (A) is not a residence (as defined in IC 3-5-2-42.5); or**
 - (B) is licensed by the state; or**
- (2) placement under this section is undetermined at the time the predispositional report is prepared.**

SECTION 9. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) A court may not enter a dispositional decree under subsection (b) if a person who is:

- (1) currently residing in the location designated as the out-of-home placement; or**
- (2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;**

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.

(b) In addition to the factors under section 6 of this chapter, if the

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court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 10. IC 31-34-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 1.5 of this chapter**, if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office of family and children.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
- (5) Partially or completely emancipate the child under section 6 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian;
 to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 11. IC 31-34-20-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a person under section 1(4) of this chapter if a person who is:**

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(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 12. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. (a) The juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a

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substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

- (i) an adult sibling;
- (ii) a grandparent;
- (iii) an aunt;
- (iv) an uncle; or
- (v) ~~other~~ **another** relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

- (i) Care, custody, and control of the child.
- (ii) Decision making concerning the child's upbringing.

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(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

SECTION 13. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

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SECTION 14. IC 31-37-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 6.5 of this chapter**, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department or the county office of family and children.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.
- (4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.
- (5) Partially or completely emancipate the child under section 27 of this chapter.
- (6) Order:
 - (A) the child; or
 - (B) the child's parent, guardian, or custodian; to receive family services.
- (7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 15. IC 31-37-19-6, AS AMENDED BY P.L.1-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter **and subject to section 6.5 of this chapter**, the juvenile court may:

- (1) enter any dispositional decree specified in section 5 of this chapter; and
- (2) take any of the following actions:
 - (A) Award wardship to:
 - (i) the department of correction for housing in a correctional facility for children; or
 - (ii) a community based correctional facility for children.
 Wardship under this subdivision does not include the right to consent to the child's adoption.
 - (B) If the child is less than seventeen (17) years of age, order

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confinement in a juvenile detention facility for not more than the lesser of:

- (i) ninety (90) days; or
- (ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

- (i) one hundred twenty (120) days; or
- (ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 16. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) The juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(D) of this chapter or awarding wardship to a person under section 1(4) or 6(b)(E) of this chapter if a person who is:**

- (1) currently residing in the home in which the child would be placed under section under section 1(3), 1(4), 6(b)(D), or 6(b)(E) of this chapter; or**
- (2) expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(D), or 6(b)(E) of this chapter during the time the child would be placed in the**

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has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

SECTION 17. IC 31-39-2-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.5.** The records of the juvenile court are available without a court order to an employee of the division of family of children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

- (1) child at imminent risk of placement;
- (2) child in need of services; or
- (3) delinquent child."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1194 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 12, nays 0.

HB 1194—LS 7344/DI 105+



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HOUSE MOTION

Mr. Speaker: I move that House Bill 1194 be amended to read as follows:

Page 2, line 13, after "family" delete "of" and insert "**and**".

Page 3, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 5. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child protection service:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article; ~~and~~

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families; **and**

(3) must provide training, for each staff person who is involved in the investigation of child abuse or neglect or who is involved in the provision of treatment services under IC 31-33-12 or IC 31-33-13 in the duty of the staff person, to recognize and attempt to uphold the:

(A) statutory rights of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect; and

(B) right of a child and any member of a child's family, including a child's guardian or custodian, who is the subject of an investigation of child abuse or neglect to be protected against unreasonable search and seizure under:

(i) the Fourth Amendment to the Constitution of the United States; and

(ii) Article 1, Section 11 of the Constitution of the State of Indiana.

SECTION 6. IC 31-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) When a law enforcement agency receives an initial report under IC 31-33-5-4 that a child may be a victim of child abuse or neglect, the law enforcement agency shall:

(1) immediately communicate the report to the local child protection service, whether or not the law enforcement agency has reason to believe there exists an imminent danger to the child's health or welfare; and

(2) conduct an immediate, onsite investigation of the report along with the local child protection service whenever the law enforcement agency has reason to believe that an offense has been

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committed.

(b) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2.

(c) In all cases, the law enforcement agency shall forward any information, including copies of investigation reports, on incidents of cases in which a child may be a victim of child abuse or neglect, whether or not obtained under this article, to:

- (1) the local child protection agency; and
- (2) the juvenile court under IC 31-34-7.

SECTION 7. IC 31-33-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The local child protection service shall initiate an immediate and appropriately thorough child protection investigation of every report of known or suspected child abuse or neglect the local child protection service receives, whether in accordance with this article or otherwise.

(b) Subject to subsections (d) and (e), if the report alleges a child may be a victim of child abuse, the investigation shall be initiated immediately, but not later than twenty-four (24) hours after receipt of the report.

(c) Subject to subsections (d) and (e), if reports of child neglect are received, the investigation shall be initiated within a reasonably prompt time, but not later than five (5) days, with the primary consideration being the well-being of the child who is the subject of the report.

(d) If the immediate safety or well-being of a child appears to be endangered or the facts otherwise warrant, the investigation shall be initiated regardless of the time of day.

(e) If the child protection service has reason to believe that the child is in imminent danger of serious bodily harm, the child protection service shall initiate within one (1) hour an immediate, onsite investigation.

(f) A member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person

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is entitled to receive under IC 31-33-18-2.

SECTION 8. IC 31-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Upon the receipt of each report under this chapter of known or suspected child abuse, the local child protection service shall contact the law enforcement agency in the appropriate jurisdiction.

(b) The law enforcement agency, with the local child protection service, shall conduct an immediate onsite investigation of the report if the law enforcement agency has reason to believe that an offense has been committed. The law enforcement agency shall investigate the alleged child abuse or neglect under this chapter in the same manner that the law enforcement agency conducts any other criminal investigation.

(c) A law enforcement officer or a member of a local child protection service conducting an onsite investigation shall, upon the initiation of the onsite investigation, inform each person who is the subject of the investigation of the nature of the complaint. The law enforcement officer or the member of the local child protection service is only required to provide a person who is the subject of an investigation with information the person is entitled to receive under IC 31-33-18-2."

Page 14, line 13, after "family" delete "of" and insert "**and**".

Re-number all SECTIONS consecutively.

(Reference is to HB 1194 as printed January 30, 2004.)

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